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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/831,778	05/14/2001	Brian Joseph Roselle	7349	9723
27752	7590	11/17/2003	EXAMINER PRATT, HELEN F	
THE PROCTER & GAMBLE COMPANY INTELLECTUAL PROPERTY DIVISION WINTON HILL TECHNICAL CENTER - BOX 161 6110 CENTER HILL AVENUE CINCINNATI, OH 45224			ART UNIT 1761	PAPER NUMBER

DATE MAILED: 11/17/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

09/831,778

**Applicant(s)**

ROSELLE ET AL.

**Examiner**

Helen F. Pratt

**Art Unit**

1761

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 25 September 2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 13, 15, 20, 21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 13, 15, 20 and 21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. §§ 119 and 120**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☒ All    b) ☐ Some \*    c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)                      4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)                      5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_                      6) ☐ Other:

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 13, 15, 20, 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Murch et al. 5,549,758 in view of Chung 4,808,330. Palaikis (5,507,968) is used to show a universal fact.

The claims are rejected for the reasons of record cited in the last office action and for these further reasons. The independent claims 13 and 20 have been amended in step a to contain additional soaps and in step g to contain a particular amount of ethanol. However, Murch et al. disclose the use of potassium laurate, which is a potassium C8-14 soap and an alkali, or alkaline earth salt of dodecylbenzene sulfonate (col. 3, lines 50-55 and col. 4, lines 1-5). Ethanol is disclosed as in step "g" as "preferably" not exceeding 2% in order to avoid an alcoholic odor when spraying (col. 10, lines 50-59). However, the use of 2% is not seen to preclude using larger amounts, if one did not mind an alcoholic odor. In addition, applicants' specification discloses the use of 2% in various examples (pages 4 and 13 of applicants' specification), and applicants' composition can be diluted in order to avoid any undesirable effects of the alcohol. No patentable distinction is seen in the use of 3.5 % instead of the disclosed 2 % as applicants' specification also uses 2% and nothing has been shown as to the

advantages of using more. In addition, Chung discloses the use of more alcohol in the range of 10-35% (abstract). Therefore, it would have been obvious to use known soaps and surfactants in the claimed composition as shown by the above references and to use particular amounts of alcohol as shown by Chung in the composition of Murch et al. for its disinfecting function.

A calcium sequesterant is disclosed as being sodium or potassium citrate as in claims 15 and 21 (col. 9, lines 19-30, Murch et al.). Therefore, it would have been obvious to use a calcium sequesterant in the claimed composition.

#### ARGUMENTS

Applicant's arguments filed 9-25-03 have been fully considered but they are not persuasive. Applicants argue that the '758 reference does not use more than 2% alcohol and that applicants' invention requires between 3.5-10% ethanol. However, the use of 2% alcohol is found on pages 21 and 22 in Example G. It is not clear from the examples that the use of higher amounts of alcohol results in a greater reduction of bacteria, as some examples do not use alcohol at all and have a high rate of reduction of bacteria. In addition, it is expected that when using higher amounts of alcohol in a composition, that more bacteria would have been killed because alcohol is known for this function (Chung, col. 2, lines 40-45).

Applicants argue that Chung '330 teaches away from the use of surfactants. This is not seen because the claims are open, comprising type claims and do not exclude the use of other ingredients (col. 8, lines 12-31).

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Helen F. Pratt whose telephone number is 703-308-1978. The examiner can normally be reached on Monday to Friday from 9:30 to 6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Milton Cano, can be reached on (703) 308-3959. The fax phone number for the organization where this application or proceeding is assigned is 703-872- 9706.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0651.

Hp 11-10-03

  
HELEN PRATT  
PRIMARY EXAMINER